

Legislative Development for the Admission of Credit Card as a Means of Electronic Payment. Comparative Study of Legal Systems between the Kingdom of Saudi Arabia, Arab and Western Countries Legislation

Assem Mohamed Mansour Al-midhkhal¹

Introduction

Credit cards are a branch of the magnetic e-cards system, as there are many other types of credit cards that have the same electronic technical description, but they differ in: their sponsoring organizations and functional use and It could be argued that the credit card is: "a world-class card issued by a financial side associated with the merchant and entitles its holder to pay for purchases and withdraw his money on agreed terms."

Credit cards can be divided into two classes :

1) Credit card

The functional use of this type of credit card is that it enables its owner to obtain a sequential debt through the credit facility to pay for purchases, and this process continues from the issuer, Card holder is not required to pay the full amount immediately, but he could repay a proportion to be agreed upon, and recycling the remaining amount to sequential periods to reap interest from the issuer.

2) Charge Card

Under which the card holder is required to pay the full amount at the end of the month without interest. It is noted that the Western countries in general have been quick to pass legislation for the credit cards in particular, and legislation governing electronic transactions in general. And it is noted that the attention of the Saudi organizer has been focused on the criminal and civil slit through the amendment of the Anti-fraud system issued by Royal Decree No (114) at the date of 1/05/1961, as amended by Royal Decree No. (A / 16) at the date of 13/08/2005 and through the issuance of the Anti-Informatics crime act No. (A /17) and the date of 26/3/2007, and it is through the issuance of electronic trading system recently No. (A /18) and the date of 26/3/2007, which means adjusting and organizing transactions and electronic signatures. However, both criminal and civil sides still have clear limitations, which require from the Saudi legislator to take initiative in the formulation of a system of electronic financial payment from which he addresses all aspects of the magnetic cards in general and credit cards in particular, such as determining the legal system in view of the legal nature of the credit cards, and identifying the parties to handle the card, And the adaptation of the legal relations of those parties with an indication of their obligations and the other issues relating to the civil slit.

The means of payment and fulfillment have developed until it reached our technological age with its pioneering electronic innovations which lead to the production of new means of payment called credit cards.

Importance of the study

Because of the importance of studying the evolution of the legislative credit card issued by financial institutions and international, regional and local banks, and what accompanies that of raising the degree of criminal and economic protection and the degree of individuals and communities security. This importance of the subject of study lies in the following :

¹ - Lecturer, College of Business Administration, Jazan University, Saudi Arabia

- 1) Seriousness which characterizes the subject, making it a fertile ground for many of the specialized studies.
- 2) Increased interest in banking sector at the present time, particularly the topic associated with the study interested in the credit cards.
- 3) The widespread use of credit cards in Saudi Arabia, and the emergence of many transactions in this range.
- 4) The urgent need to strive to identify whether the admissibility is legitimate or not in showing the types of credit cards issued by local banks in the Kingdom of Saudi Arabia in particular.

The emergence of many diverse and organized crimes resulting from illegal use of credit cards.

Research Methodology

The subject of study imposes, as the title of the research shows, a sort of comparison between the legislation of different countries in the credit card, therefore the researcher has to follow one trail in the path of research and has to be supported by several secondary roads; in order to come up to the end and to reach the hoped purpose, therefore the researcher has to rely on the methodology of the study on the following considerations:

- 1) The general nature of the study depends on the analytical approach to all aspects of legislation relating to credit cards at the western, Arab and local levels.
- 2) The researcher strives to reach clear comparisons about the legislative stages of the credit card until the present time.
- 3) The researcher adopted, in the beginning of the study, the explanation of what is meant by a credit card and whether it is intended to include all the magnetic cards or it is a stand - alone type.

For this the researcher chooses to talk about this issue as follows:

The first requirement: the emergence of the credit card.

- First: the emergence of the idea of a credit card.
- Second: the practical application of the idea of a credit card.
- Third: the most important services offered by credit card.
- Fourth: the ability of the credit card to be as an alternative to traditional money.
- Fifth: the practical application of the emergence of the credit card in the Arab world.

The second requirement: the legislative evolution of the credit card in different countries.

- First: legislation issued by the Western countries.
- Second: legislation issued by the Arab countries.
- Third: the credit card legislation in the Kingdom of Saudi Arabia.

A- The First Requirement: The Emergence of the Credit Card

I / Emergence of the idea of a credit card:

The idea of credit cards has emerged three thousand years ago. The Assyrians, Babylonians and the veteran Egyptians have known the concept of fulfilling the deferred since the run time until the Islamic civilization came with financial transactions similar to these cards designated as "patches", where the market traders in Basra went to the ATM and gave him the money with them and replace it by the patches given to them and then they buy the necessities of the market where the patches were used as the method of payment for the seller instead of money.

According to some researchers the first appearance of the credit card was in the United States of America in 1914 when the company (Creneral Petroleum corporation) issued a credit card for the company workers as well as some important customers, where the company gave them a short-term credit for the purchase of their needs from the company's products on the condition that the payment would be in the end of each month, then the idea moved to some shops that proceeded to issue a metal card called : (Shoppers-plat's) for the important customers, but soon these cards failed due to the outbreak of the First World War and then re-running the cards by two businessmen who were obliged to issue an institution called Diners Club.

And some researchers think that the first appearance of the credit cards was in 1730, where a British dealer called (Christopher Thompton) offered to sell furniture for weekly payments and then the idea rolled to emerge since the eighteenth century until the early twenties of the twentieth century, Where merchants were selling clothes and recording the customers' withdrawals and quantities in the side of the wooden planks. As they were recording payments and dates in another field. Whatever the case is the first appearance of the credit cards go back to the twenties of the last century - as I said before, where it appeared at that time, a system called (Buy now, pay later). Then the shops issued a system called (pounds dependence) and the pound metal-made reading: The name of the merchant, his shop, and his sequence numbers to identify the owner and his account, and the primary motivation responsible in the emergence of this kind of pounds dependence is to win the confidence of customers and encourage the important clients.

II / The practical application of the idea of a credit card:

In 1950 (Diners Club) company announced the issuance of the first cards, which bore the name of the issuing company.

In 1958 the (Bank-of-America) issued the famous credit card which bore the name of the bank, the card was circulated to all branches of the mother bank on the west coast of America, then a bank called: (Chase-Manhattan), second major banks in the United States of America, issued a card that bore his name.

In 1966, the decline and contraction in the rate of inflation led (3301) bank of America to use the credit card and financial integration with other financial institutions.

A year later, a so-called (Inter bank card association) union was established and the Union included eight U.S. banks which issued the card (Master charge) and then change its name in 1982 to (Master card), and after the formation of the Union appeared (the visa organization) in 1970 which consisted of the card (U.S. Card) sold to a bank belonging to the Association of Bank of America, and after that appeared the card (Discovery) in 1986 which was provided and spread within the United States of America by the company "Sinerz".

Then later the fever of credit cards moved to Europe and the starting point was in Britain, where two major cards emerged :

- A- Access-card: issued by the United company of the credit card and composed of three banks.
- B- Barclays-card: these cards - originally- issued in collaboration with the international organization (visa) and (MasterCard).

In France, five savings banks issued such cards and the most famous was the blue card that performed the functions of fidelity and credit, then the card spread in France through its banks such as : Bank of Paris, and agricultural credit banks that issued the Green Card, then came the regular laws that respect - as a scholar said - "the technological modesty" to achieve and ensure for the means of modern contracting and the emerging means of financial transactions its own characteristics of high-technology.

In 1987, the credit card which was the subject of a recommendation issued by the European Commission became a law in France and some European countries and this European law has contained - in order to deal properly in the field of automated fulfillment- various provisions dealt with the consumer protection, the protection of competition and provide security for the new system to deal with.

In 1988, the European Commission issued a second recommendation concerned with the relationship between the cardholder and the exporter. Then came the late nineties of the twentieth century to carry these cards with its various interests to most of people of all classes of French society, and these cards have become a major part of Western economic culture in particular and the world in general to deal with credit card extended to the whole world.

III / The most important services offered by credit card:

The flexibility and agility of the credit card helped in the conclusion of many business transactions in general and even get money anywhere in the world through what is posed by the delegated international organizations to the issuing banks as these latter were concerned about giving customers credit card with secret numbers known only to the owner of the card so that they can withdraw money and pay for purchases and services that you get in a safe and easy manner, however, some refused to make electronic deals with the magnetic cards in general as in this case they will be separated physically from the owner, which could lead to serious fraud with dire consequences by the exploitation of others for these cards and deals through when they access to the PIN of the card. The answer to this objection is that the security means which are made through the card's magnetic stripe is not easy to be obtained by others and decrypt confidential figures given only to the card holder.

These figures send also a formal registered letter shall only be for the owner of the card and then there is no one else to know about it and recognizing that such cards may be exposed to loss and theft and may be found. But the manufacturers were careful through the withdrawal of the cards that their users make mistakes when they enter the secret numbers for three times. Besides, the issuers have provided the means of modern communication and telephone lines throughout the twenty-four hours through which the customer can report the loss or theft of the card, then the officer stops the electronic circuit so that the bank is the guarantor of the safety of the electronic signature in the face of all those who enter with the client in electronic transactions through this system which is safe from the precautions taken when issuing these magnetic cards that its magnetized wire contains all the data on the owner, and the computer -the backbone of these e-cards - plays a key role in identifying the name and number of the card holder and the limits of withdrawal given to the owner, and can identify the expiry date, or other symbols of commercial transactions, and inside the tape there are three tracks, the first of which is related to reading, contains (name of carrier), while the remaining two tracks contain all the information associated with the operation carried out by the owner of the card also contain the dates of drag-and-meet.

The aforementioned tracks vary according to the type of the card and its commitment to the system, so that when using this card associated with a direct line (on-line) the deal enters directly on the account of the owner of the card and the process of discount and settlement occurs. But in the case of the indirect (off-line) system, the card needs to use two tracks distinct from the first track in order to restrict the recent operations carried out through the card as well as to restrict the remaining balance when making each process.

IV / The ability of the credit card to be an alternative to traditional money

Because of this enormous revolution provided by credit cards in particular, and magnetic cards in general in the information systems based on the computer, the scholars were divided in their opinions about the possibility to use these cards as a substitute for traditional money as these cards are able to exchange value and accept to deal with in many places, and perhaps this reasoning was a motivation for the supporters of the first view who believe that e-cards are an alternative to traditional money.

While supporters of the second opinion believe that these cards are not money; for the availability of the binding of dealing with money, and this cannot be found in the cards for their inability to keep up with all the features in the money. Therefore, e-cards are vice and not a substitute and perhaps this trend- the second one - is trustworthy because it is impossible to collect the functions of money in the magnetic cards, which is a new way of payment, loyalty, and cash - as scholars mentioned – its ownership is linked to the rule of tenure in the transferee (title of the property) while the card a person can't convey its ownership to other parties, or he can't renounce it for this card has its cash nature which makes of it a new means of pay and fulfillment and which is expressed in the banking operations that are made through this integrated system of technical preparation of the cards by the asymmetric multi-way, which "means the key to the work of the code is different from the key of decoding", which confirms that these new technologies, in spite of the industrial complexity, the spirit of the deal with it as an alternative for the money cannot be accepted as a new idea.

V / The practical application for the emergence of the credit card in the Arab world:

The widespread achieved by this credit card at the international level makes the Arab nations a market from which a steady increase of the sponsoring organizations to these cards is fulfilled. In 1981, the Arab banks found themselves - in the Arab world - in front of a new means of payment and fulfillment, so they compete to be engaged with the international sponsoring organizations in agreements allowing the grant of such credit cards to its customers and dealing through, to reap the returns, and profits regardless of the usurious interest resulting therefrom; for this the Arab Banks began to correlate with global networks such as: (Visa network), and (MasterCard) as in: (Lebanon, and the Kingdom of Saudi Arabia, Syria, Lebanon, Egypt and the rest of the Gulf Cooperation Council).

Over time, banks started to realize the economic importance of these cards, so the Arab banks were devoted to issue cards bearing its name and achieving a wide propagation on a global scale, and as a result the first version of a credit card in Saudi Arabia was issued in early eighties, then the issuing of the cards used in the national network, which is one of the most important global networks: (Saudi-Net), came successively. Moreover, the Saudi Monetary Agency is working on plans for the future of these donor banks and coordinating among them so as to achieve development in the banking sector in Saudi Arabia. With the beginning of the new millennium of the current century the credit cards received a high demand at the level of the issuing banks due to the introduction of the banking sector to legitimate committees to reflect the policy of these banks which is based on Islamic transactions.

But the work of these legitimate banking committees have exceeded to the interest-based banks that have started the expansion of financial transactions through the launch of some promotional offers of the compatible financing with the provisions of Islamic law. And thus entered the most banks in the amendments to legitimize the financial transactions and this is good for these banks and banking institutions, but it should be pointed to the need to take all necessary precautions during the work of these legitimate banking committees without opening the door to funding offers which bearing, in its the general level, the legitimate characteristics, although it involves the prohibited benefits of usury.

The researcher believes that the time has come for the State to intervene in the development of a permanent banking body operating under the supervision of Arabian Monetary Agency and oversees all the offers made by banks and banking institutions, especially those offers widespread in recent times that call for access to Islamic credit cards without illustrating the essence of the financial transaction and the type of the credit granted to the owner of the card. The legislation governing the contracting parties to the credit card, and the responsibility arising from it, and the crimes resulting from the illegitimate use of these cards, is the only way to solve all the problems that may result from the spread of the use of credit cards in Saudi Arabia.

B- The Second Requirement Legislative Development of the Credit Card in Different Countries

I / legislation issued by the Western countries

The credit card is Considered as an effective means of payment, it also provided to the owners of shops a guarantee to meet the price of their sales, and gave them protection from theft of money. It also provided them with more growing volume of business which prepared it to occupy an outstanding place in a world experiencing a consecutive technological mobility that not only representing a new industrial revolution but also becoming a culture of community. The United States of America and Europe have become a culture of e-cards. In 1998, (95%) of American citizens obtained credit cards, as well as in Europe, for example, French statistics showed that an amount of (471) billion francs was paid through networks of credit cards in 1992.

The economic studies conducted in Canada showed that there are approximately fifty million cards by the end of 1994 owned by two-thirds of the Canadian adult population, male and female, and through this credit card the population of Canada pumped almost forty billion dollars. There is no doubt that the electronic progress achieved by the United States through its sponsors international organizations make of these cards a cause for many of the raised questions by the men of Jurisprudence and American justice and the EU and therefore it was a must on the legislature to intervene by imposing regulations that surround all aspects of credit card, and therefore the United States of America is considered a pioneer in card system until this day.

Where it issued a series of laws that organized the deal with credit card and it stood on the most prominent legal problems raised against it, and a law was prepared to bring together the group of those regulations, called the "Law of protection of the adoption of the consumer", and perhaps the most prominent laws that this regulation contained –with its civil and criminal texts– The law of equitable credit inquiry, the law of equal access to credit, the law of the proper procedures in collecting the debt, the Law of electronic transfer of funds, the law of transparency in the credit, and the law of the restrictions of warnings. These laws dealt with all aspects of the civil liability through the texts describing the members of the legal relations of the credit card with a statement of mutual obligations between the parties, and the consequent failure of one of the members of such legal relations to meet the obligations of credit cards in his duty and give the other the right to terminate the relationship, as well as the right to compensate for damage caused by the failure to implement the obligations stipulated in the contract. The civil texts are dealing with foreign legislations in case of the loss or the theft of the credit card and the use of it, which resulting in the civil liability, but not on the basis of the rules of contractual liability, this is because the other is not a member of the contractual relationship with three members: (merchant, bank, and the issuer of the card, the card holder), but on the basis of the rules of tort, but it exceeded to the rigging of the card and then using it in the payment of purchases or withdrawals, and here also the civil liability is held based on tort.

These texts also tackled the penal aspects resulting from illegal use of credit cards, the United States of America is still the largest market for credit cards, and still has more than half of the fraud, Which is very large when compared to Europe where the fraud rate is (30%) of the fraudulent ways in the world, especially in England, where the means of fraud multiplied and many of the crimes appeared in this area, and despite the strict measures taken by the British banks and the necessary security precautions this phenomenon began to take the character of organized crime. It should be noted that the actions of cheat and fraud have increased in other countries where the credit cards have recently appeared. However, these countries were able to record fraudulent transactions that requires caution especially in the Republic of China (PRC), where this problem has extended to other countries in Southeast Asia such as: (Malaysia, and Thailand, and Japan), while cases of fraud in Latin America is very low.

As for forging credit cards, the largest proliferation was registered in Asian countries, although the first and growing appearance was in Canada and Europe, and some states in America, especially the state (California). Whatever the case is, there are significant differences between the different countries of the world about the diversity of crimes in those countries, where the European countries were suffering from the problems of loss and theft of these cards. However, fraud is a second crime that is a "second class" crime compared with crimes of assault on the individual, his car or his money, it is difficult to convince the authorities that this crime is committed in order to obtain the plastic card for using it in fraud. In Asia, forgery is the most prevailing crime in the countries of this continent, especially the Far East such as Malaysia and Thailand, which recorded a number of crimes associated with rigging the categories of credit cards and the most complex ones in spite of the huge activity and the unlimited cooperation between banks and payment and the police departments. With this expansion and growth of crimes, European countries did not stand idly, but but hastened to prepare the necessary legislation for recognizing the importance and seriousness of the technological revolution of information and its great impact on the cultural field.

For that, the subject of credit cards issued by the European Commission on 8/1/1987 which became a law in France and later in some European countries and this recommendation was named: European law for the proper deal in the field of automated or electronic fulfillment. This law contains provisions for a variety of topics included in its entirety on topics related to consumer protection and the protection of competition and provide security for the new system of dealing. Then came the second recommendation in the year 1988, issued also from the European Commission and focused on the relationship between the card holder and the exporter. After the issuance of these regulations and working out the demand for credit cards in European societies has clearly increased and became unfamiliar that a person does not carry a credit card, especially in large European cities in the late nineties of the twentieth century. The interest in the issuance and working out of legislation - as did the United States of America and European countries - contribute to the development of this new electronic means and allows the sponsoring organizations to work to develop future plans to protect this modern system and blocks the road to all attempts to misuse credit cards across international networks methods which adopted the organized crime, and looked for all the possibilities to disgrace the sanctity of these funds.

II / Issued legislation by the Arab States

The Arab countries delayed in the issuance of legislations related to credit cards and some Arab countries were satisfied in their legislations with the inclusion of provisions dealing with penal slit through the laws against informatics crimes and facing computer and internet crimes. These countries still need to enact laws concerned with magnetic cards in general, or modify existing laws to be in line with the emergence of these new methods to the essential band in the area of daily financial transactions. Unfortunately, Arab legislation remain very weak, as the United States of America has completed its legislative structure by the end of the last century concerning legislation governing electronic transactions in general and credit cards in particular, while we note that the Arab interest turned to such legislation at the beginning of this century.

The first legislation in the Arab countries concerning trade and electronic exchange has been issued from Tunisia in 2000 where the Tunisian legislator issued a law called "the law of trade and Tunisian e-exchange " which included provisions dealing with contract and electronic transactions, also tackled the crimes that happen on this trade and electronic transactions, and among them the crimes of deception and credit card fraud.

Then the Emirate of Dubai issued - one of the emirates of the UAE - the law of electronic transactions and electronic signature and legal protection for the two within the Emirate of Dubai. It is a law that adjusts the electronic transactions and electronic signatures and established legal protection for them. Subsequently, the Egyptian legislature passed the Electronic Signature Law number (15) for the year 2004 in which he explained the provisions of the electronic signature and the criminal protection of prescribed to it.

Then the projects of e-commerce followed in succession in the Kingdom of Bahrain, Qatar, Kuwait, Lebanon and Jordan. Some Arab countries deliberately amended their criminal laws and issued legislations that faced computer and Internet crimes. And the UAE worked for the preparation of a draft law against the crimes of computer and the Internet.

In 2003 the Arab model law was passed regarding the fight against computer crime and the Internet, and this law was formed from the sources of two projects issued by the Council of Arab Interior Ministers and the Council of Arab Ministers of Justice in the scope of the Secretariat of the League of Arab States as common law. The Arab model law included –or so said the pattern - provisions on combating cyber crimes. Article VI of the Arab Model Law provides that: "Any person who uses a credit card of drag-mail from the balance -outside of his actual balance - or by using a stolen card or getting it by any illegal means or using the numbers in the withdrawal or purchasing or other financial transactions with the knowledge of that is punished by imprisonment term of not less than (leave at the discretion of each country) and a fine (leave at the discretion of each country)."

III / credit card legislation in the Kingdom of Saudi Arabia

Whatever the case is, the Saudi organizer - in this regard- walked in the footsteps of Arab legislations and the interest of the Saudi legislator has been featured through the amendment of the Anti-fraud system issued by Royal Decree No.(114) at the date of 11/5/1961, and amended by Royal Decree No. (A / 15) at the date of 13/8/2005 to include penalties for the crime of fraud of fidelity and withdrawal card. Therefore, Article XIII (A / 13) provides that: " Any person who falsifies a fidelity or withdrawal card issued by banks or licensed financial institutions, by imitating it, or changing its data, or its image, or replacing the image of a person by another, or participating in this by incitement or agreement or assistance, or using a counterfeit card with the knowledge of the purpose for which it has been prepared, by invoking with it for others, or using it automatically even if it does not achieve the purpose of use, shall be punished by imprisonment for a term not exceeding ten years or a fine not exceeding fifty thousand riyals, or both. "

It is clear from this text that the Saudi legislature restrained the crime of forgery in the fidelity or withdrawal cards, while it is worthier to extend the penalty to include all who falsifies the magnetic cards in order to include the credit card in all that, but in this case, the text include just fidelity cards that are not of the same type of credit cards and debit cards or what is known as (Cash card "ATM").

Then came the Article XIV (A / 14) to clarify the following:

- A. " Preparing the images of the editors that seem to be standing out as the original editors for the application of these rules.
- B. All who falsifies photographs or automatically processing documents or data stored in the computer memory or on a tape or a magnetic disc or other media, or uses it and he knows that it is forged will be punished by the penalties contained in this system. "

Paragraph (b) mentioned through the expression in this paragraph "... or on a tape or a magnetic disc..." what a credit card can be included in, even the magnetic cards in general, and the researcher finds that the repetition of certain words contained in the texts of articles increases the ambiguity of these texts.

The Saudi legislature not only amend the anti- counterfeiting system referred to above – it even passed the Anti-Informatics Crime Act based on the Council of Ministers Resolution No (79) at the date of 25/3/2007. In light of this, the Royal Decree (A / 17) ratified this system at the date of 26/3/2007.

The Saudi legislator explained the objective from the issuance of this system through Article II (A / 2) which stipulates that: "This system aims to reduce the incidence of informatics crime, by identifying these crimes and the penalties prescribed for each of them and which lead to the following:

- 1) To help achieve information security.
- 2) Protect the rights pertaining to the legitimate use of computers and information networks.
- 3) Protect the public interest, ethics and morals.
- 4) Protection of the national economy.

The system aims - as set (A / 2) to achieve the needed information security for computer networks and computer systems which contribute to the preservation of rights arising from the use of information systems and reduce the widening of IT crimes in a time known by the enormous information revolution, especially with the Kingdom's accession to World Trade Organization.

The joint obliged the Saudi Arabia to amend some laws and enact regulations to ensure the protection of the investing companies on its territory. This system and other systems before and after were an evidence of the international cooperation of the Kingdom to fight against informatics crime, and therefore came the Article IV (A / 4) from this system to stipulate that: "punished by imprisonment for a term not exceeding three years and a fine of not more than two million riyals, or either of them, every person who commits any of the following informatics crimes:

- 1) Taking for himself or for any other person a moveable property or bond, or the signing of this bond, by means of fraud or making a false name or impersonating.
- 2) Access - unfairly - to the bank or credit data or data relating to the ownership of securities to obtain data, information or money or services offered. "

There is no doubt that the punishment provided in this article reaches every person who accesses to the credit data in general, among this the credit card as the access to credit card data like PIN numbers allows individuals or organized gangs to get the money of those cards. The attention of the Saudi legislator did not stop at dealing with the penal aspects, but extended to reach the civil slit, through the issuance of the system of electronic transactions issued by Royal Decree No. (A / 18) at 25/3/2007, which aims to adjust the electronic transactions and signatures, and organizing them, and providing a legal framework for them, which leads to facilitate the use of electronic transactions and signatures at the international and local levels, to use them in all commercial, medical and educational fields, and the field of electronic financial payment.

The system aims to prevent abuse and fraud in electronic transactions and signatures, as provided in (A / 21):" The provider of the certification services has to cancel the certificate, or stop working out at the request of the owner, or in the cases specified in the index, and must inform the owner of the certificate immediately, by cancelling, or suspension, or the reason for that, and raise any of them immediately, if the reason is negated, and the provider of the certification services shall be liable for damage that occurs to any person of good faith, as a result of non-stop or cancel the certificate. "

Through the review of the regulations issued as a system of electronic transactions and the system of anti-crime information - referred to above - or the amendments added to the system of anti-counterfeiting can be said that credit cards - especially - and magnetic e-cards - in general - are increasing rapidly in the Kingdom of Saudi Arabia. In 1999, the banks and financial players in general, issued more than 6.3 million credit card and these cards pumped about \$ 5.22 billion riyals per year.

Which means that more than a quarter of the Kingdom's population carry the cards and deal with it, and there is no doubt that these numbers are increasing every year especially with the creation of some banks and financial institutions legitimate committees working to correct transactions and financing it, which led to the demand of many individuals on these cards.

The Saudi regulator has to take initiative to develop a system that cares for the electronic magnetic cards in general and credit cards in particular, and this continued increase of the magnetic cards raises many legal problems at the level of civil law in determining who bears the amounts by which the purchase is done and the amounts drawn from the stolen or forged cards. Are they the issuers or owners of shops or the owner of the card?.

Conclusion

The researcher arrives to the latter curve of this area. Therefore, he concludes his modest study with findings and recommendations as follows:

First: The results:

Perhaps the most important results that can be referred to are the following:

- A. Muslims have known this modern way - I mean the cards in general - since ancient times through their dealings with a tool similar to a card called (patcher), where traders in the market of Basra, go to the ATM and give him the money with them and replace them by the patcher given to them, and they buy necessities of the market, and the patchers are a way to pay for items instead of money.
- B. The crimes of assault on a system of credit cards are considerate the most serious crimes which should draw the attention of all countries to issue the necessary legislation to protect individuals and communities from the risks of misuse.
- C. The credit card remains one of the branches of the magnetic e-cards system, since there are many other species that are involved within the credit cards in the electronic technical description, however, drawer of many interested people and researchers in this field on the divisions of the cards, electronic view of the institution issuing the card, where is called the card a credit card be made for a commercial or financial, and called the bank card if issued by the Bank, it is also divided into e-cards according to the function of which was issued for it, for example, debit card from the current account, called a debit card this month, and if the card was lead guarantee of checks, are called Security card checks. However, many of the interested people and researchers in this field used to divide the electronic cards according to the institution issuing the card. The card is called a credit card when it is issued by a commercial or financial institution, and called a bank card if issued by the Bank. E-cards are also divided according to the function they were issued for, for example, withdrawal card from the current account, is called a debit card, and if the card is a guarantee for checks, it is called Check guarantee card.

The researcher tends to label credit card with that name but at the same time he differentiates between the credit card and other similar types. Not all magnetic card called a credit card, so it can be said that the credit card is divided into several sections taking in consideration:

- (1) - The sponsoring organizations.
- (2) - The functional use.

- D. The credit card can be defined in positive law as: a world-class card issued by a financial side associated to the merchant and its bearer, entitled to him to pay for purchases and withdraw his money on agreed terms.
- E. Credit cards are divided into two parts:

1 - Revolving credit card (Credit-card): called (revolving debt card) and (borrowing card), and (real credit card) and credit cards were known for this type and it has emerged to all nations of the world.

The functional use of this type of credit card consists in enabling its holder to access to the successive debt through the credit facility to pay for purchases and the issuer continues the process and the card holder does not need to pay the full due amount immediately.

2 - The specified credit card (Charge-card) is called (temporary card debt), or (non-renewed debt card), or (not renewed debt card), or (card on the account), or (deferred fidelity card), or (monthly payment card).

The researcher believes that the reason for these translations, and these different names is the broad Arabic sweep (in particular) and international sweep (in general), which is achieved by this credit card because they are often free of interest. The image of the financial transaction of this type of credit cards can be seen through the use of its owner in the various procurement process and the received services and cash withdrawal.

But the crucial difference between revolving credit card - the above-mentioned - and the specified credit card: is that in case of revolving credit card the bank provides real loans with interest, and the card holder has the right to choose the method of payment. But in the specified credit card, the card holder is required to pay the full amount at the end of the month with no interest and, in case of non-compliance to pay the issuing bank cancel the card and some of the banks go beyond this and they impose delayed fines in the case of non-payment. But the researcher believes that the delayed fines have prohibited usury benefits earned by banks and financial institutions without any right to it. No doubt that the strive of Islamic banks to cancel such benefits and only satisfying with Subscription fees and cash withdrawals is a positive step for these banks, through the attempt to correct the financial transactions in accordance with the provisions of Islamic Sharia.

F-The United States, Canada and Western European countries made progressive steps in the field of legislation governing the issuance of credit cards (in particular) and legislation governing electronic transactions (in general). Also, some of these countries were quick to amend its legislation to be in line with the new electronic means, and began to prepare and rehabilitate human resources that implement these laws. Also, these laws contained criminal and civil texts and the main objective of formulating them was to ensure the most necessary civil and criminal protection, and security when using such credit cards.

On the other hand, legislation of some Arab states were satisfied with issuing regulations dealing with informatics crimes and computer and Internet crimes, or through the issuance of regulations dealing with electronic transactions under the broad framework. The vacuum still in an urgent need to enact laws dealing with electronic magnetic cards in general, and credit cards (in particular) to address all civil and criminal aspects that ensures the rights and prevent the aggressor and achieve the desired justice. It is noted that the attention of Saudi organizer has been focused on the criminal and civil slit through the amendment of the Anti-fraud issued by Royal Decree No. (114) at the date of 11/5/1961, and amended by Royal Decree No. (16) at the date of 13/8/2005; to include penalties for the crime of forgery of debit and fidelity card.

Through the issuance of the Anti-Informatics Crime Act, based on the Council of Ministers Resolution No. (79) at the date of 25/3/2007, and in light of this, the Royal Decree No. (A / 17) was issued at the date of 26/3/2007 to authenticate this system, and through the issuance of e-trading system No. (A1/18) at the date of 25/3/2007.

The researcher believes that these added provisions or the issued system related to the fight against crimes of informatics, or the system issued on electronic transactions, are a good leap that should pay attention to it long ago. But the civil aspects of the whole, and many criminal aspects of magnetic cards in general and credit cards in particular, are still begging the Saudi regulator the need to prepare regulations that address all the problems and issues related to them.

G – The researcher finds that Arab societies (in general) and the Saudi society (in particular) suffer from the lack of familiarity of the community with the culture of credit cards in terms of advantages and disadvantages for the following reasons:

- A. The absence of legislation governing the important aspects of the cards (in general), and credit cards (in particular).
- B. The novelty which characterizes this means in terms of the multiplicity of the dealers.
- C. Some banks deliberately hide the negative aspects that result from the breach of obligations of the Issuer and satisfying with dictating the terms, and clarify the obligations of the owner of the card due to the lack of legislation governing the nature of the contract between the bank or financial institution issuing the card on the one hand and the customer and the merchant on the other.

Second : the recommendations

Recommendations can be grouped in the following points:

- A. The researcher recommends the need to adopt the name of the credit card as a term distinguishes it from other cards, since there is no reason why some researchers gave this title to all magnetic e-cards.
- B. The researcher recommends the need to hasten the Kingdom of Saudi Arabia to enact a system that addresses all civil and criminal aspects of magnetic electronic card (in general) and credit cards (in particular) it is called (the system of financial electronic payment), which facilitates the way for researchers, judges and those interested in this field.
- C. The researcher recommends the need of the intervention of the Arabian Monetary Agency, through the activation of its supervisory role over local banks, to prevent any irregularities affecting the rights of holders of credit cards. It is imperative for banks to provide the necessary extent for the rights of holders of the cards, through the inclusion of the agreement concluded between them and the client, some items that show clearly the obligations of the issuing bank, and the rights of holders of credit cards, rather than just mentioning the commitments that are the responsibility of the owners of credit cards only.